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General Assembly
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General Assembly
Sixty-sixth session
Agenda items 35, 39, 65, 67, 69, 83 and 84

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Promotion and protection of the rights of children

Elimination of racism, racial discrimination, xenophobia and related intolerance

Promotion and protection of human rights

The rule of law at the national and international levels

The scope and application of the principle of universal jurisdiction

Security Council
Sixty-seventh year

Letter dated 23 March 2012 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I am writing with reference to the letter dated 24 February 2012 from the Permanent Representative of the Republic of Armenia (A/66/708-S/2012/117), which, in both form and content, presents a provocative attempt to respond to my letter of 17 February 2012 relating to the twentieth anniversary of the bloody reprisals by the Armenian armed forces against the Azerbaijani population of the town of Xocali (A/66/704-S/2012/105).

Significantly, the said letter from the Permanent Representative of Armenia has as its attachment a statement made in the name of the puppet separatist regime unlawfully established by Armenia in occupied territory of the Republic of Azerbaijan. The mere act of propagating in this manner the existence of a separatist formation which is ultimately nothing other than the product of aggression and racial discrimination graphically demonstrates Armenia's stubborn refusal to comply with the obligations incumbent on it under international law and to abide by universally recognized standards of civilized behaviour.

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Clearly, both the letter from the Permanent Representative of Armenia and the substance of its attachment constitute yet another instance of the blatant falsification resorted to by the Armenians in their endeavour to deny their guilt and responsibility for the crimes committed during their campaign of aggression against peace and humanity. The reasoning behind the Armenian propaganda explaining the massacre of the peaceful Azerbaijani population of Xocali is based on the absurd aspiration, which flies in the face of common sense, to represent matters in such a manner as if it were the Azerbaijanis themselves who allegedly obstructed the evacuation of the civilian population from the area of military hostilities and, even worse, gunned down their own fellow countrymen, in order to exploit the large numbers of civilian casualties for their own internal political ends. There are more than sufficient facts which refute these vile and nefarious fabrications and these have repeatedly been brought to the attention of the international community.

Thus, in his letter dated 24 March 1997 addressed to the Minister for Foreign Affairs of Armenia, the Executive Director of Human Rights Watch/Helsinki responded as follows to attempts by the Armenian propaganda machine to obfuscate this human rights organization with its fabrications:

> "Our research and that of the Memorial Human Rights Center found that the retreating militia fled Khojaly along with some of the large groups of fleeing civilians. Our report noted that by remaining armed and in uniform, the Azerbaijani militia may be considered as combatants and thus endangered fleeing civilians, even if their intent had been to protect them.
>
> "*Yet we place direct responsibility for the civilian deaths with Karabakh Armenian forces. Indeed, neither our report nor that of Memorial includes any evidence to support the argument that Azerbaijani forces obstructed the flight of, or fired on Azeri civilians.*" (Our italics) (Full text of the letter from the Executive Director of Human Rights Watch/Helsinki may be found on the organization's website: http://www.hrw.org/news/1997/03/23/response-armenian-government-letter-town-khojaly-nagorno-karabakh)

The Armenian author Markar Melkonian, who dedicates his book to the "glorious road" followed by his brother — the notorious international terrorist Monte Melkonian, who personally took part in the assault on Xocali — describes in detail how Armenian soldiers butchered the peaceful inhabitants of this town. Thus, as he puts it, some inhabitants of Xocali had almost made it to safety, after fleeing for nearly six miles, when "[Armenian] soldiers had chased them down". The soldiers, in his words, "unsheathed the knives they had carried on their hips for so long, and began stabbing." (Markar Malkonian, *My Brother's Road: An American's Fateful Journey to Armenia* (London and New York: I. B. Tauris, 2005), pp. 213-214).

It should be noted that, in his comments, the Permanent Representative of Armenia passes in silence not only over the abundant evidence left by witnesses to the tragedy and the findings of independent investigations by foreign journalists, human rights activists and authoritative international non-governmental organizations, but also the public admission by the President of Armenia, Serzh Sargsyan. To refresh the memory of Armenian diplomats and other participants in that deplorable campaign of slander and vilification, we are obliged once again to draw attention to the revelations made by the current Armenian head of State.

Thus, in his interview with the British journalist Thomas de Waal of 15 December 2000, Serzh Sargsyan had no qualms about admitting that, "before Khojali, the Azerbaijanis thought that ... the Armenians were people who could not raise their hand against the civilian population. We were able to break that [stereotype]." (Thomas de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* (New York and London: New York University Press, 2003), p. 172). Recently, some 12 years later, Thomas de Waal published the full transcript of that interview, the contents of which offer the most effective rebuff to the fabrications of Armenian propaganda (see http://carnegieendowment.org/2012/02/24/president-interview-and-tragic-anniversary/9vpa). Take, for example, the following words by Serzh Sargsyan, which need no further comment:

> "Yes, it's true that there were civilians in Xocali. But there were also soldiers together with the civilians. And when a shell flies through the air, it doesn't distinguish between civilian and soldier, it has no eyes. If the civilian population remains behind, even when they have a perfectly good opportunity to leave, it means that they are also taking part in the hostilities ..."

We are struck not only by the cynicism with which the President of Armenia talks of the mass murder of entirely innocent people, but also by the glaring omission in his education, unpardonable for a person who by virtue of his official position should have a very clear understanding of the scope of his decisions and actions. Serzh Sargsyan would most probably refrain from voicing such revelations if he were aware of the universally recognized laws of the conduct of military operations, including, above all, those mandating that a clear distinction be maintained between civilians and combatants and also prohibiting attacks of an indiscriminate nature. Having made the incontrovertible observation that an artillery shell flying through the air has no eyes, the head of the Armenian State could hardly then dispute the fact that those who choose the target and fire the shell against it are the ones with eyes.

The Armenian President also debunks the myth about the corridor allegedly left open by the assailants for the civilian population of Xocali. Thus, answering the interviewer's question on this issue, Sargsyan readily concedes that "generally speaking, this was after Xocali", since at the time "there was a certain amount of ethnic cleansing", as "it's impossible to do this any other way". In answer to de Waal's question as to whether things could have happened differently and whether he had any regrets about the death of thousands of people, the Armenian head of State answers quite unabashedly that "he has absolutely no regrets", since "such upheavals are necessary, even if thousands have to die".

Serzh Sargsyan also openly admits that the war was unleashed by Armenia and that its aim was a long nurtured plan to seize Azerbaijani territory. Furthermore, he asserts that, during the active military phase of the conflict, it was precisely the Armenian side which blatantly ignored the demands by the Security Council for an immediate halt to all military operations and hostilities, with a view to establishing a lasting ceasefire. At a time when there was a real possibility of halting the bloodshed and saving the lives of thousands of people, the Armenian leaders reasoned otherwise. The following words by President Sargsyan speak for themselves:

> "We embarked once on a war like this, but I don't think we could do it a second time. It would be simply impossible. It might be possible, perhaps, in

some fifty or a hundred years' time. But when you say to a soldier: Stand back, he won't move forward again. There were no solid guarantees. Look, they were saying, first let's give up the territory, then we can review the situation. But why should they review the situation? Why? It made no sense".

The poorly concealed nervousness of the Armenians and the energy that they devote to deluding the international community about the events in Xocali and other crimes committed during Armenia's war of aggression against Azerbaijan are all too easy to explain.

First, it is well known that both the present and former presidents of Armenia, Serzh Sargsyan and Robert Kocharian, together with many other high-ranking officials of this State and leaders of the puppet separatist regime set up by Armenia in occupied territory of Azerbaijan, personally participated in seizing Azerbaijani land and in the bloody reprisals against civilian population. It is clear that, given the scale and gravity of the offences which they committed, the criminal prosecution of these persons would be an inevitable consequence of their evil deeds.

Second, the premeditated massacre of the civilian population and defenders of the town of Xocali was not an isolated or sporadic act, but part of the widescale and systematic policy and practice of violence waged by Armenia, driven by its annexationist ambitions and odious notions of racial and religious intolerance. In this sense, the Armenian leaders and the separatist chiefs who answer to them have much in common with the perpetrators of the unprecedented atrocities of the Second World War. We should note in particular, that the massacre in Xocali and other serious crimes committed against the Azerbaijanis during the conflict definitively dispel the myth of Armenia as an eternal victim. It is also clear that, seen against this backcloth, Armenia's attempts to represent its actions as exercise of its right to self determination are utterly discredited.

We are convinced that sustained measures undertaken at the national level, together with the existing legal foundations for the judicial prosecution and punishment of these most serious crimes, which have so alarmed the international community, will help in ending the impunity enjoyed by Armenia for the crimes of aggression that it has committed against Azerbaijan.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda items 35, 39, 65, 67, 69, 83 and 84, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative

United Nations A/66/765–S/2012/198

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Security Council

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General Assembly
Sixty-sixth session
Agenda items 109 and 118

Security Council
Sixty-seventh year

Measures to eliminate international terrorism

The United Nations Global Counter-Terrorism Strategy

Identical letters dated 5 April 2012 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council

Over the past few days, there has been an escalation in terrorist acts committed by armed groups in Syria, particularly since the reaching of an agreement regarding the plan proposed by Mr. Kofi Annan. There have been bombings which preliminary evidence suggests are the work of Al-Qaida elements, as well as violence perpetrated by other armed terrorist groups. There has also been growing incitement from parties that claim to support Syria and the mission of the Special Envoy of the United Nations while at the same time taking measures that contravene that plan and inhibit the return of security and stability to Syria.

The outcomes of certain recent meetings show that the participants' fundamental goal was to shed more Syrian blood. Indeed, certain parties have announced that they will allocate resources to finance, arm and pay the salaries of groups which, as we have demonstrated in previous letters, have carried out killings, violence and terrorism.

Certain parties sparked the unfolding crisis in Syria through unprecedented media incitement and by supporting, arming and funding terrorist groups; yet they never acknowledged the existence of those fighters until it was demonstrated by the League of Arab States Observer Mission, which documented their killings, destruction and terrorism. Those parties then withdrew the Arab observers and put an end to the Mission. They failed to act on the Mission's report because it did not serve the interests of Syria's enemies within and beyond the League of Arab States.

The Syrian Arab Republic provided the League of Arab States Observer Mission and United Nations agencies with documentary proof of the armed terrorist groups' crimes against civilians and law enforcement forces in Syria, as well as their countless attacks on infrastructure and private and public property, which have impacted the lives of Syrian citizens. Verified preliminary figures show that terrorists have killed over 3,212 martyrs from the civilian population, 2,088 from

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the army and law enforcement forces, 478 from the police, 204 women and 56 children. In addition, they have carried out kidnappings and issued death threats for ransom: 1,570 civilians, soldiers and policemen have been kidnapped, 941 of whom are still missing. Some of their bodies were found after being displayed. 2,286 Government vehicles have been stolen.

It is strange that while ostensibly shedding tears for the Syrian people, many media organizations and officials within and beyond the region have not said a word about those crimes. Instead, they have pressed for regional and international organizations to adopt resolutions whose fundamental aim is to provide a distorted view of Syria, threaten its stability, independence and sovereignty, and damage its regional and international role. The representatives of some Member States of the United Nations are now falling over one another to turn the international institutions against Syria in order to undermine Mr. Annan's efforts. Syria, on the other hand, has affirmed that it supports Mr. Annan's mission and will cooperate to ensure its success.

Syria urges all States to cooperate with it to prevent and eliminate terrorist acts, including by implementing the international counter-terrorism resolutions. Syria insists that the international community and, in particular, the Security Council must take the necessary measures to prevent and eliminate the funding or preparation from abroad of any terrorist acts against Syria. Certain States have expressed support for the terrorists and advocated arming them in order to attack Syria. We urge those States to consider the consequences of their words and deeds; the world has not yet forgotten the disastrous regional and international impact of their decision to fund terrorists in other States. Syria insists that all concerned States must refrain from giving safe haven to individuals who plan, support or commit terrorist acts. The international community can no longer indulge those terrorists or their backers. Moreover, international terrorism is closely connected with transnational organized crime, money-laundering and illicit trafficking of drugs and weapons, aspects that are all relevant to the events currently taking place in Syria. The concerned parties in the United Nations must reject and condemn such actions in order to coordinate national, regional and international efforts to confront those grave challenges to international security.

As a founding member of the United Nations and an active participant in its work, Syria looks forward to the cooperation of all States in order to eliminate terrorism and the funding and arming thereof. Independent and sovereign States should be spared the tragic legacy of terrorism.

I should be grateful if you could have this letter circulated as a document of the General Assembly, under agenda items 109 and 118, and of the Security Council.

United Nations A/66/766–S/2012/211

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Security Council

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General Assembly
Sixty-sixth session
Agenda item 113 (c)
Elections to fill vacancies in principal organs: election of five members of the International Court of Justice

Security Council
Sixty-seventh year

Election of a member of the International Court of Justice

Memorandum by the Secretary-General

I. Introduction

1. By a letter dated 20 November 2011, a certified copy of which was forwarded to the attention of the Secretary-General under the cover of a letter of 24 November 2011 from the President of the International Court of Justice, Judge Awn Shawkat Al-Khasawneh (Jordan) informed the President of the Court, pursuant to Article 13, paragraph 4, of the Statute of the Court, of his resignation as a member of the Court effective 31 December 2011. A vacancy in the Court therefore occurred on 31 December 2011.

2. Judge Al-Khasawneh was elected as a member of the Court from 6 February 2000 and was re-elected on 12 November 2008. His current term of office would have expired on 5 February 2018. According to Article 14 of the Statute of the Court, the vacancy shall be filled by the same method as that laid down for the regular election and the Secretary-General shall, within one month of the occurrence of the vacancy, issue the invitations for nominations provided for in Article 5 of the Statute. According to Article 5, paragraph 1, of the Statute, the invitations for nomination have to be made at least three months before the date of the election, which is, pursuant to Article 14, to be fixed by the Security Council.

3. By a note dated 17 January 2012 addressed to the Security Council (S/2012/38), the Secretary-General referred to Judge Al-Khasawneh's letter of resignation and drew the attention of the Security Council to Article 14 of the Statute of the Court regarding fixing the date of the election to fill the resulting vacancy in the Court. Pursuant to Article 14 of the Statute of the Court, the Security Council decided, by resolution 2034 (2012) adopted at its 6704th meeting on 19 January 2012, that the election to fill the vacancy would take place on 27 April 2012 at a meeting of the Security Council and at a meeting of the General Assembly at its sixty-sixth session.

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4. Pursuant to Article 5, paragraph 1, of the Statute of the Court, the Secretary-General, in a communication dated 19 January 2012, invited the national groups of States parties to the Statute of the Court to undertake the nomination of persons in a position to accept the duties of a member of the Court. The Secretary-General further requested that nominations should be received no later than 2 April 2012. The nominations received by that date and the curriculum vitae of the candidates are transmitted in separate documents of the General Assembly and the Security Council (A/66/767-S/2012/212 and A/66/768-S/2012/213, respectively). The name of the candidates will appear on the ballot papers to be distributed during the election.

5. Article 15 of the Statute of the Court provides that a member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of the predecessor's term. The member elected to replace Judge Al-Khasawneh will thus serve until 5 February 2018.

6. The current composition of the Court and the procedure in the General Assembly and the Security Council for filling the vacancy are described below.

II. Composition of the International Court of Justice

7. The present composition of the International Court of Justice is as follows:

President:
Peter Tomka (Slovakia)***

Vice-President:
Bernardo Sepúlveda-Amor (Mexico)*

Judges:
Hisashi Owada (Japan)***
Ronny Abraham (France)**
Kenneth Keith (New Zealand)*
Mohamed Bennouna (Morocco)*
Leonid Skotnikov (Russian Federation)*
Antônio Augusto Cançado Trindade (Brazil)**
Abdulqawi Ahmed Yusuf (Somalia)**
Christopher Greenwood (United Kingdom of Great Britain and Northern Ireland)**
Xue Hanqin (China)***
Joan E. Donoghue (United States of America)*
Giorgio Gaja (Italy)***
Julia Sebutinde (Uganda)***

* Term of office expires on 5 February 2015.

** Term of office expires on 5 February 2018.

*** Term of office expires on 5 February 2021.

III. Procedure in the General Assembly and in the Security Council

8. The election will take place in accordance with the following:

(a) The Statute of the Court, in particular articles 2 to 4 and 7 to 12 and 14;

(b) Rules 150 and 151 of the rules of procedure of the General Assembly;

(c) Rules 40 and 61 of the provisional rules of procedure of the Security Council.

9. On the date of the election, the General Assembly and the Security Council will proceed, independently of one another, to elect one member of the Court to fill the vacancy (Art. 8 of the Statute).

10. According to Article 2 of the Statute, judges are to be elected, regardless of their nationality, from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. Article 9 requires electors to bear in mind not only that the person to be elected should individually possess the qualifications required, but also that, in the body as a whole, the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

11. The candidate who obtains an absolute majority of votes both in the General Assembly and in the Security Council will be considered as elected (Art. 10, para. 1, of the Statute).

12. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors whether or not they vote or are allowed to vote. The electors in the General Assembly are all 193 Member States. Accordingly, on the date of the present memorandum, 97 votes constitute an absolute majority in the Assembly for the purpose of the present Court election.

13. In the Security Council, eight votes constitute an absolute majority, and no distinction is made between permanent and non-permanent members of the Council (Art. 10, para. 2, of the Statute).

14. Only those candidates whose names appear on the ballot papers are eligible for election. The electors in the General Assembly and in the Security Council will indicate the candidate for whom they wish to vote by placing a cross against the name on the ballot paper. Each elector may vote for only one candidate.

15. At the 915th plenary meeting of the General Assembly, on 16 November 1960, a procedural discussion took place as to whether rule 94 (then rule 96) of the rules of procedure of the Assembly should be applied in elections to the International Court of Justice. That rule lays down a procedure for restricted ballots in the event that, after the first ballot, the requisite number of candidates have not obtained the required majority. The Assembly decided that the rule did not apply to elections to the Court and it proceeded to elect the requisite number of candidates by a series of unrestricted ballots. That decision has been followed consistently.

16. If, in the first ballot in either the General Assembly or the Security Council, no candidate receives an absolute majority, a second ballot will be held and balloting will continue in the same meeting until a candidate has obtained the required

majority (rule 151 of the rules of procedure of the Assembly and rule 61 of the provisional rules of procedure of the Council).

17. Cases have arisen in the Security Council in which more than the required number of candidates have obtained an absolute majority on the same ballot. The practice followed by the Council has been to hold a new vote on all the candidates, and in such cases the President of the Council has made no notification to the President of the General Assembly until only the required number of candidates, and no more, had obtained an absolute majority in the Council.

18. When a candidate has obtained the required majority in one of the organs, the President of that organ will notify the President of the other organ of the name of that candidate. Such notification is not communicated by the President of the second organ to the members until that organ has itself given a candidate the required majority of votes.

19. If, upon comparison of the name of the candidate so selected by the General Assembly and the Security Council, it is found that the result is different, the Assembly and the Council will proceed, again independently of one another, in a second meeting and, if necessary, a third meeting to elect one candidate by further ballots, the results again being compared after one candidate has obtained an absolute majority in each organ. If necessary, the above procedure will be repeated until the General Assembly and the Security Council have given an absolute majority of votes to the same candidate.

20. If, however, after the third meeting, the vacancy still remains unfilled, the special procedure set out in Article 12 of the Statute of the Court may be resorted to at the request of either the General Assembly or the Security Council.